

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

United States of America

vs. CRIMINAL ACTION NO. 5:98-cr-13-DCB-1
Bobby Wilson, Jr. Defendant

ORDER

This matter is before the Court on Defendant Bobby Wilson, Jr. ("Wilson")'s Motion to Supplement the Record. [ECF No. 97]. Wilson moves pursuant to Rule 10 of the Federal Rules of Appellate Procedure. Wilson has requested that the Court provide the Fifth Circuit with: (1) his competency report prepared by Dr. Rick DeMiere; (2) the Report prepared by the United States Probation Office; (3) his counsel's objections to the pre-sentence report; and (4) the joint ore tenus Motion for Psychiatric exam made by defense counsel and the Assistant United States Attorney.

In his motion, the Defendant states that he does not know the meaning of ore tenus and does not have access to a legal definition. An ore tenus motion is one that is made orally. In this case, the AUSA and defense counsel made an oral motion for a psychiatric exam during the Defendant's detention hearing. While the parties did not submit a physical motion, the ore tenus motion is reflected on the docket as a Minute Entry [ECF

No. 7], a copy of which has been sent to the Fifth Circuit. Further, the Court's Order [ECF No. 9] granting the ore tenus motion is a part of the record and will be before the Fifth Circuit. Therefore, the request to supplement the record with the motion for psychiatric exam is MOOT inasmuch as it is already a part of the record.

Further, the Report prepared by the United States Probation Office, i.e., the Pre-Sentence Investigative Report is reflected at docket entry 24 [ECF No. 24] and has been certified and forwarded as part of the appellate record. Therefore, the request to supplement the record as to the Pre-Sentence Investigative Report is MOOT.

As to the remaining documents, the Court finds the Motion to be well taken and has submitted the following to the Clerk of Court:

- (1) the Defendant's competency report prepared by Dr. Rick DeMiere, a copy of which is included as an exhibit to the Defendant's objections to the pre-sentence report; and
- (2) the Defendant's objections to the pre-sentence report.

Accordingly,

IT IS HEREBY ORDERED that the Defendant's Motion to Supplement [ECF No. 97] is DENIED in part as MOOT and GRANTED in part;

IT IS FURTHER ORDERED that the Clerk of Court is instructed to supplement the record with the relevant materials.

SO ORDERED, this the 24th day of August, 2020.

/s/ David Bramlette

UNITED STATES DISTRICT JUDGE